

Question I (town meeting prayer case) (60 points)

standing-noneco-change in behavior?, MM didn't attend in 2005, but has in past, may not attend in 2006, but due to prayer?, municipal taxpayer standing - but no \$ spent on prayer-----(5) _____

Marsh historical exception-argue it applies-town mtg like leg & even Christian prayer ok(4) _____

not like Marsh-all residents vote, not elected reps, no chaplain, no prayer tradition at mtg(5) _____

Lemon test-purpose-to advance religion (Christian prayer) vs. to solemnize the occasion-(4) _____

effect - no coercion, adults, participants may feel must be respectful (like football prayer)(4) _____

entanglement-no entanglement w/ relig org, but divisiveness based on reaction to prayer----(6) _____

endorsement test-purpose to endorse religion?------(3) _____

how will Christian prayer make adherents and nonadherents feel - insider/outsider issue-(4) _____

reasonable observer w/ knowledge of history and context,situ where relig practice occurs(3) _____

coercion-no need to attend, but civic obligatn, psych coercion, if attend-respectful silence(5) _____

government sponsored vs. private speech-delivered by gov't official who had opportunity by virtue of office not as a private citizen, but can she express personal religious views?-----(5) _____

denominational prayer-preference for Christianity?, does gov't have to be neutral betw religions, if it doesn't should ct use strict scrutiny standard for a preference for a particular religion(4) _____

ceremonial deism-not brief, long tradition?, denominational prayer not general reference to God that may have lost its religious significance, there was controversy in aftermath of prayer(5) _____

miscellaneous _____ (3) _____

Question II (required community service for high school seniors) (60 points)

standing-father & daughter atheists, req'd course - coercion, no info he isn't her custodial parent so he can sue on her behalf, unlike Newdow, taxpayer standing - spending program-----(4) _____

facial vs. as applied challenge-uphold on face, later as applied challenge if particular relig orgs incorporate religious aspects into their service activities as in Bowen v. Kendrick------(4) _____

Lemon Test - purpose prong - purpose to teach to be good citizens and help community (3) _____

effect-students choose own service activity- private choice - but only 1 nonrelig choice--(4) _____

content of in-school presentations & service work itself - not about religion but service--(3) _____

can't assume public school teacher will incorporate religion just bec visits religious sites(3) _____

relig groups benefit from student workers, symbolic union of ch & state-no longer issue-(3) _____

entanglement-school conducts election-pits relig orgs ag nonrelig- like football prayer case(4) _____

admin entanglement-jt supervision betw teacher and clergy on attendance, quality of work, but like Agostini admin coop, doesn't require daily ongoing supervision-pervasive monitoring---(5) _____

endorsement test-appearance to reas observer-encourage comm'y service or endorse relig?-(4) _____

religious clubs dominate choices - 4 out of 5------(4) _____

like Bowen v. Kendrick - religious organizations can participate on same basis as others(3) _____

projects not relig in character - tutoring, garden, etc., no reason to assume (facial challenge) religious organizations will incorporate religion in their community service projects------(3) _____

coercion - students must listen to presentation by relig orgs (but not about religion)------(3) _____

invitation to present creates public forum, relig & nonreligious orgs are entitled to access(3) _____

students choose charity to participate in, but only one nonreligious option, peer pressure-(4) _____

miscellaneous _____ (3) _____

Question III (3 short essay questions)

Part I (state univ sculpture garden - public forum - free speech/Establishment Clause) (20 points)

Result - SU wins, challenger loses------(2) _____
SU argues-free speech cl-created pub forum-sculptures w/ artistic merit-even anti-relig-- (3) _____
exclusion of anti-relig art bec of content- violate free sp rts of sculptor-viewpnt discrim---(3) _____
no compelling reason to exclude - EC doesn't justify exclusion of private anti-relig speech(2) _____
no violation even if no public forum-SU display w/other sculptures doesn't violate EC--(2) _____
no purpose to inhibit religion - just artistic merit of work, displayed w/other works of art(2) _____
no effect to inhibit, no entanglemnt, no appearance of endorsemt-like Texas 10 C display(3) _____
disclaimer-lesser remedy - could add disclaimer as in Mergens, not school's own speech(3) _____

Part II (Satmar accommodation case- change of schedule for Town Council Meeting) (20 points)

Result - Town wins, but a close case------(2) _____
Kennedy test-lifts identifiable burden on Satmars-can't go to Council mtgs,no oblig to go(2) _____
Burden shifting? yes those who can't attend on Thurs, but true no matter what night it is-(2) _____
1 person not enuf-probably non-Satmars can't attend Friday for personal reasons as well-(2) _____
extend benefit to similarly situated relig observers-all Fri. Sabbath observers get benefit-(2) _____
benefit never universal, mtg must be on 1 night, that night could be Sabbath for some----(2) _____
but not if observe Sabbath on Thursday, but no such religion has identified itself------(2) _____
Preference for religious over non-religious reasons for non-attendance-Caldor------(2) _____
Lemon test - purpose to permit Satmars to attend mtg not promote religion, no effect of
indoctrination or endorsement, no entanglement just by moving day------(4) _____

Part III (music appreciation class exemption - Free Exercise clause) (20 points)

Result - likelihood is that Lisa Lucas (LL) wins------(2) _____
Substantial burden on sincerely held religious belief not lifestyle choice------(3) _____
like Yoder, hybrid case - Free Ex plus parents right to raise children as they choose------(3) _____
strict scrutiny test------(1) _____
application of test - compelling interest - school says music appreciation education------(2) _____
If compelling, issue is whether interest would be undermined if LL exempt------(2) _____
No bec Morgantics learn music in their services;LL will have music educ w/o course-----(3) _____
not core part of public education like English or Math------(2) _____
won't disrupt school for other students------(2) _____